THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.14704 of 2007

Date 16-7-2007

Between:
The Principal Chief Postmaster General,
A.P. Circle, Hyderabad and others.

……PETITIONERS

AND

Sri M. Maqbool

……..RESPONDENT

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.14704 of 2007

ORDER: (per Smt. T. Meena Kumari,J)

In this writ petition, the petitioner seeks a Writ of Certiorari to call for the records relating to O.A. No. 307 of 2006, dated 19.4.2007 on the file of the A.P. Administrative Tribunal, Hyderabad and to quash the same.

The brief facts of the case are that the respondent herein was working as Senior Postmaster and thereafter, he was transferred as Deputy Chief Postmaster, Hyderabad. While so, the department alleged that the respondent while working as Senior Post Master, allowed the bulk sale of stamps worth of Rs. 73,75,670/- to a single person, viz., M/s. Karvy Consultants, Banjara Hills, Hyderabad, through one Raj Kumar, licenced stamp vendor at Khairatbad post office and paid commission of Rs. 3,68,783-50 to the stamp vendor in contravention of the Directorate's letter dated 27.12.1995, thereby, he caused a loss of Rs. 3,68,783.50 to the department. The Department, thereafter, issued a memo dated 29.3.2006 informing him about the proposed action for the aforesaid imputations of mis-conduct alleged against him. The respondent, thereafter submitted his reply to the said charge memo on 1.5.2006. The Department, after conducting due enquiry into the matter has issued proceedings dated 11.5.2006 directing recovery of an amount of Rs. 92,196/- from the respondent in ten monthly

instalments as per Rule 204 of Postal Manual Volume – III and Rule 58 of the FHB Volume-I. It also directed that the next increment of the respondent falling on 1.7.2006 be withheld for a period of two months without cumulative effect. Aggrieved, the respondent preferred appeal before the appellate authority and during the pendency of the appeal, he filed the O.A. impugned in this writ petition before the Tribunal seeking stay of recovery and for suspension of the impugned orders. The Tribunal, by the order impugned in this writ petition, allowed the O.A. and set aside the punishment imposed against the respondent. Aggrieved, the department filed the present writ petition.

Sri A. Rajashekar Reddy, learned Assistant Solicitor General of India appearing on behalf of the department would contend that the since respondent himself has approved the indent for such a huge purchase of stamps contrary to the limit prescribed by the Directorate General; that he having exceeded the said limit allowed the sale of stamps in bulk and caused loss to the department, thereby committed a gross mis-conduct. The Tribunal without taking into consideration the gravity of the mis-conduct, allowed the O.A. by the impugned order. He, therefore, prayed that the writ petition be allowed and the impugned order of the Tribunal be set aside.

On the other hand, learned counsel appearing for the respondent, submitted that there is no restriction for sale of stamps and the restriction of sale of stamps to a single person should not exceed Rs. 500/- has been removed in the subsequent letter of the Director General, dated 6.1.1994. He, therefore, supported the impugned order passed by the Tribunal and prayed that the writ petition be dismissed.

Admittedly, the respondent himself had approved the indent for

Rs. 76,25,000/- - in connection with the procurement of stamps from the Circle Stamps Depot for supply to Sri M. Raj Kumar, Licensed Stamp Vendor for supplying the same to M/s. Karvy Consultancy. Further, on a perusal of the order of the disciplinary authority, it is seen that as per the orders of the respondent alone, the stamp treasurer and the APM concerned, procured the stamps worth of Rs. 73,75,670/- from circle stamps depot, Hyderabad in the car arranged by M/s. Karvy Consultancy and supplied the same to the licensed stamp vendor and to the person of Karvy Consultancy and also paid a commission of Rs. 3,68,783.50 to the licensed stamp vendor. the respondent himself has approved the special indent through which the licensed stamp vendor was benefited with a huge amount of Rs. 3,68,783-50 as commission, the respondent has caused loss to the department. The disciplinary authority further observed that there is restriction on the sale of stamps by a licensed stamp vendor to a single party in bulk and the same is contrary to the letters dated 18.8.1983 and 6.1.1994. Further, the restriction as contained in letter dated 18.8.1983 is not modified in the subsequent letter dated 6.1.1994 of the Director General and the same is still in operation. In the instant case, since the special indent was signed by the respondent himself, who was working as the Senior Postmaster of Khairatabad Post office at the relevant point of time, the respondent was responsible for the bulk sale of stamps to the stamp vendor, which resulted in loss of Rs. 92,196/- to the Department. The disciplinary authority, after taking into consideration the charge sheet and having perused the explanation of the respondent, through order dated 11.5.2006, has found that the respondent was responsible for the bulk sale of stamps of Rs. 73,75,670/- and accordingly imposed the punishment of recovery of an amount of Rs.

92196/- in nine equal monthly instalments at Rs.9200/- per month and Rs. 9306/- as last instalment. He also ordered for withholding of the next increment falling due on 1.7.2006 for two months without cumulative effect. In the appeal preferred against the said order, the appellate authority, through order dated 1.9.2006, while upholding the order of the disciplinary authority directing recovery of an amount of Rs. 92,196/- from the respondent, however, took a lenient view of the matter and reduced the penalty of withholding of increment due on 1.7.2006 from a period of two months without cumulative effect to one month. In view of the gravity of the mis-conduct alleged and proved against the respondent, it cannot be said that the punishment imposed by the disciplinary authority as modified by the appellate authority through order dated 1.9.2006 is unjust or illegal. Hence, we are of the considered opinion that the Tribunal without taking into consideration the pecuniary loss caused to the Government, has erroneously allowed the O.A. by setting aside the order dated 1.9.2006 of the appellate authority. Therefore, the impugned order of the Tribunal dated 19.4.2007 passed in O.A. No.307 of 2006 is liable to be set aside and the same is accordingly set aside. The department is entitled to recover an amount of Rs. 92,196/- from the respondent.

At this juncture, Sri Venkanna learned counsel for the respondent has submitted that in view of the pendency of the disciplinary proceedings initiated against the respondent, the department has not released the retiremental benefits to the respondent. He further submitted that pursuant to the order of recovery, the respondent has already paid an amount of Rs. 34,000/- to the department.

Under the circumstances, we direct the Department to recover the

amount of Rs. 92,196/- from out of the retiremental benefits of the respondent and to pay the balance amount to him after giving credit to the amounts, if any, paid by him.

The writ petition is accordingly disposed of. No costs.

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T. MEENA KUMARI,J

DATE: 16th July, 2007

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G. CHANDRAIAH,J

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